Briefing Document for Public Scoping Hearings for Pacific Coast Groundfish Fishery Environmental Impact Statement

National Marine Fisheries Service Northwest Region – May 21, 2001

The National Marine Fisheries Service (NMFS) is preparing a comprehensive environmental impact statement (EIS) on the federal management of the Pacific Coast groundfish fishery in the Exclusive Economic Zone off Washington, Oregon, and California. An EIS is a broad analysis document that tests the effects of federal natural resource management activities on the human environment, as required by the National Environmental Policy Act (NEPA.) Depending on the final scope of this EIS, the EIS analysis could address all of the major activities authorized under the Pacific Coast Groundfish Fishery Management Plan (FMP) and all amendments to the FMP. NMFS is holding public scoping meetings in six west coast cities (Seattle, WA; Astoria, OR; Newport, OR; Eureka, CA; Burlingame, CA; and Los Alamitos, CA) to request public input on the range of actions, alternatives, and impacts that the EIS should consider.

Why are we doing an EIS on the groundfish fishery now? All federal FMPs must be analyzed in periodic EISs and it has been many years since the FMP's original 1982 EIS. More recent NEPA compliance documents have focused on the effects of specific management proposals and their alternatives, without looking at the cumulative effects that overall groundfish management has on the human environment. The groundfish fishery has been through major changes in the last decade, including a limited entry program and increasingly more conservative harvest policies based on new scientific information and Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requirements, as well as the dramatic decline in abundance of many groundfish stocks. In addition, the Pacific Fishery Management Council (Council) has adopted a new Strategic Plan to provide long-term direction for management of the fishery, and significant changes to the FMP. Thus, this is a good time to step back and evaluate the environmental effects of current groundfish management under the FMP, including the Strategic Plan's recommendations for future management.

Late last year the U.S. District Court (A.O.C. v. Daley) found that NMFS and the Council did not do an adequate NEPA analysis on the designation of Essential Fish Habitat (EFH) and the effects of fishing gear on EFH for the West Coast groundfish FMP. The Court has ordered NMFS to prepare a new NEPA analysis that complies with the Act, which is a second reason why this is a good time to prepare an EIS on the groundfish FMP with particular attention to EFH.

The purpose of this EIS is to assess the environmental consequences of a suite of actions, many of which are outlined in the Council's Groundfish Fishery Strategic Plan – "Transition to Sustainability." This Plan currently consists of policy recommendations on harvest, capacity reduction, allocation, habitat protection and marine reserves, and scientific data collection and analyses. In addition to the general public, fishing communities, and the fishing industry, these recommendations concern activities to be undertaken by federal, Council, state, tribal and Pacific States Marine Fisheries Commission (Commission) fishery managers over the short and long term. Because of the broad scope of the Plan and the conceptual nature of the proposed actions, NMFS has elected to prepare a comprehensive EIS with the help of the Council, the Commission, and state and tribal agencies. Information developed from this process will be incorporated into subsequent analyses of specific future actions.

When complete, the EIS will describe the major effects of Pacific coast groundfish fishing on the human environment. It will also evaluate a range of reasonable management alternatives and of their effects, in order to define issues and provide a clear basis for choice among the management options. We do not expect that the choice of a "preferred" future management alternative will immediately result in any changes in the FMP or in state and federal regulations. However, evaluated alternatives will set the stage for the long term direction and boundaries for specific future fishery management actions. Through this hearing, we are asking the public to help define significant issues and the range of alternatives for dealing with those issues to set the Pacific groundfish fishery on its long term sustainable path. To track EIS-related documents, please monitor NMFS's groundfish EIS website: <<http://www.nwr.noaa.gov/1sustfsh/groundfish/gf_eis.htm>>.

Management Structure

The Magnuson-Stevens Act is the legislation that directs how NMFS manages the nations's fisheries. The Magnuson Act created the Pacific Fishery Management Council to advise NMFS on fishery management issues. The voting members of the Council include a representative from each state, at-large appointees from the states, tribes, and the regional director of NMFS. The Council developed the groundfish FMP and recommends FMP and regulatory amendments, as well as making harvest recommendations. There are many avenues for public input in the Council process.

Description of the Fishery

There are 82 species managed under the groundfish FMP. These species support a wide range of commercial and sport fishing interests and are typically harvested in multi-species complexes, meaning that several different groundfish species may be caught together at the same time. The directed commercial groundfish fisheries are divided into three primary sectors: limited entry trawl, limited entry fixed gear, and open access. Each of the three coastal states has different interests within each commercial sector. Commercial groundfish fishing vessels use a variety of gear types and fishing strategies including pot, longline, vertical hook-and-line, troll, setnet, trammel net and various types of trawl gear. Groundfish are also harvested incidentally in non-groundfish fisheries, most notably the trawl fisheries for pink shrimp, spot/ridgeback prawns, California halibut, and sea cucumber.

Groundfish are harvested by marine sport anglers fishing from docks and piers, beaches, and private or charter boats. Commercial passenger fishing vessels and private boats take the majority of the recreational harvest, consisting mainly of nearshore rockfish species and lingcod. The intensity of the sport fisheries varies by port along the coast and differs regionally, with participation being strongest in southern and central California.

In addition, members of the Makah, Quileute, Hoh, and Quinault tribes participate in commercial, ceremonial and subsistence fisheries for groundfish off the Washington coast. Participants in tribal commercial fisheries use similar gear and fishing strategies to those of non-tribal fishers operating off Washington.

Trends in the West Coast Commercial Groundfish Fishery

During the late 1970s and early 1980s, overall West Coast groundfish landings increased rapidly, reaching about 116,000 metric tons (mt) in 1982. For the next few years, landings remained around 90,000 to 100,000 mt annually, supported by large rockfish and flatfish catches. At that time, the government was encouraging expansion of the U.S. commercial fishing industry through loan guarantees and other programs. The nation's foremost fishery legislation, the 1976 Fishery Conservation and Management Act, set goals to build a U.S. fishing industry and to increase U.S. fish processing capacity. (The 1976 Fishery Conservation and Management Act was later amended and renamed as the Magnuson-Stevens Act.) During the late 1970s and early 1980s, recreational fisheries were also shifting some of their effort away from dwindling salmon resources towards abundant nearshore rockfish and lingcod resources.

Between 1983 and 1999, West Coast commercial shoreside ex-vessel revenues from landings of groundfish decreased by 47% from $100.2 million to $52.9 million (in 1999 dollars). This revenue decline occurred in spite of a concurrent 12% increase in aggregate commercial shoreside groundfish landings from 108,500 mt to 121,500 mt. The decline was particularly severe for rockfish and flatfish, which annually accounted for 50%-60% of non-whiting groundfish revenues. Between 1983-1999, rockfish landings fell by 78% and revenues by 69%; flatfish landings fell by 41% and revenues by 73%.

Biological Factors Affecting the Fishery

In 1998, the Council adopted a lower harvest rate for rockfish on the basis of scientific information suggesting those stocks are less productive than previously believed. In 1999, in order to comply with new Magnuson-Stevens Act provisions, the Council adopted a default harvest rate policy that set stringent rebuilding requirements for "overfished" stocks. The Council is developing formal rebuilding plans for lingcod, bocaccio, Pacific ocean perch, canary rockfish, cowcod, darkblotched rockfish and widow rockfish; additional species may be declared overfished in the future.

Declining abundance trends observed for many West Coast groundfish stocks indicate that historic harvest rates have been too aggressive.

Some of this low productivity, at least in recent years, may be because of changing ocean conditions. Around 1976, there was a change in the temperature of the Pacific Ocean off western North America; scientists refer to this change as a regime shift. Ocean temperatures increased and, on average, remained warmer from 1976 to about 1999. This temperature shift affected ocean biological productivity, reducing food supplies and causing some species to migrate to new areas. A series of strong El Niños (short-term climate shifts) also occurred along the West Coast. Plankton abundances changed, sometimes declining to very low levels. There is growing evidence that the ocean shifted back to a cooler and more productive phase around 1999, which could improve growth and reproduction of many cold water groundfish species. However, due to the depressed status of many groundfish stocks, the long periods required to rebuild overfished stocks, and the possibility of further OY reductions in the near future, most groundfish harvests are likely to remain restricted for many years to come.

Essential Fish Habitat

Under the Magnuson-Stevens Act, the Council was required to describe and identify essential fish habitat (EFH) in the FMP. The Magnuson-Stevens Act defines EFH as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." Amendment 11 to the FMP describes large composite EFH zones: estuarine, rocky continental shelf, non-rocky continental shelf, canyons, continental slope and basin, neritic (waters above the continental shelf, and oceanic (waters above the continental slope and basin. A large appendix to the FMP describes the individual life histories and habitat needs of FMP species. (See <<http://www.nwr.noaa.gov/1sustfsh/efhappendix/page1.html>>)

Collectively, the 82 species managed under the FMP occur throughout the entire West Coast Exclusive Economic Zone (EEZ, waters out to 200 nautical miles from shore) and occupy diverse habitats at all stages of their lives. Some species are widely dispersed during certain life stages, particularly those with pelagic eggs or larvae, and the EFHs for these species/stages are correspondingly large. On the other hand, the EFH of some species/stages may be comparatively small, such as that of adults of many nearshore rockfish. Thus, the Council designated the West Coast EEZ as EFH for groundfish.

In addition to defining and identifying EFH, the Magnuson-Stevens Act also required that Council identify the effects of fishing and non-fishing activities on EFH. NMFS has been sued over the implementation of the Sustainable Fisheries Act EFH provisions on fishing activities in the West Coast groundfish FMP and other FMPs nationwide. This EIS will respond to the U.S. District court's order in *American Oceans Campaign* v. *Dale*y, ordering NMFS to perform a new National Environmental Policy Act analysis (like an EIS or an Environmental Assessment) on the EFH provisions in Amendment 11 to the FMP. Accordingly, the EIS will also evaluate alternatives to describe and identify EFH and the effects of fishing activities on EFH.

Landing Limits

The Council has a long-standing goal of maintaining fishing opportunities twelve months a year. To meet this goal, each commercial vessel is limited to landing specified poundages during different periods, called cumulative landing limits. Individual cumulative landing limits have declined substantially in recent years due to lower groundfish stock sizes, more precautionary management, and a more efficient fishing fleet. So as to not exceed overall OYs and to meet Magnuson-Stevens Act requirements, the Council has had to reduce harvests and slow down the rate of landings. The limited entry fixed gear sablefish fishery, which until recently operated without landings limits, was year-round in the early 1980s but has been reduced to 6-9 days in recent years. Recreational fishing opportunities have been reduced throughout the coast, with both season closures and reduced bag limits for important species.

Overcapitalization and Its Effects on the Fishery

In 1994, the Council implemented a limited entry program for the commercial groundfish fishery in response to shrinking profits and declining harvest levels. Currently, the limited entry fleet includes 236 fixed gear vessels, 264 trawl catcher boats, and 10 trawl catcher-processor vessels. No trawl catcher-processors qualified for the initial issuance of limited entry permits, so they had to buy permits from groundfish catcher vessels in order to participate in the whiting fishery after 1993. Because each permit has a vessel length endorsement, and catcher processors are much larger than traditional trawl vessels, each catcher-processor had to buy and combine several permits to participate in the fishery. The reduction in the number of trawl permits due to the catcher-processor buy-up has been the only significant change in the groundfish fleet configuration since the 1994 beginning of limited entry.

Potential harvest capacity includes both unused (or "latent") and in-use capacity. Although the limited entry program has likely had the effect of "freezing" potential harvest capacity at its 1994 level, the low eligibility requirements for limited entry assured that even vessels with marginal involvement in the fishery were eligible for a permit. As a result, a significant proportion of the harvest capacity initially admitted into the limited entry program consisted of latent capacity. Many of these permits were later transferred to vessels that now actively participate in the fishery, leading to overcapitalization.

Overcapacity rates are high for all sectors of the commercial groundfish fishery. Analysts estimate that 9% of the limited entry fixed gear vessels could harvest all of their sablefish allocation and 12% of the vessels could harvest the non-sablefish components of the fishery. For the trawl fishery, only about 27%-41% of the current fishing capacity is needed to catch and deliver the shore side harvest, and 6%-13% of the open access vessels could take the open access groundfish allocation.

Current FMP

The FMP was approved by the Secretary of Commerce on January 4, 1982 and implemented on October 5, 1982. Before the FMP, the states of Washington, Oregon, and California had responsibility for managing domestic groundfish fisheries. State regulations have been in effect on the domestic fishery for about 90 years and, before 1982, each state acted independently in both management and enforcement. However, many fisheries overlap state boundaries and participants often operate more than one state. Since 1982, the Council has developed 14 FMP amendments in response to changing resource and fishery conditions.

Amendment 1 to the FMP (1) provided the flexibility to alter the trip limit or impose other fishing restrictions for Pacific ocean perch which would maintain a 20 year rebuilding schedule; (2) modified gear marking requirements for certain gear; (3) modified the vessel identification requirements; (4) added several species, including northern jack mackerel, to the fishery management unit; (5) imposed a trip limit on sablefish when the optimum yield (OY) was being approached; (6) modified the definition of legal trawl gear; and (7) established a separate numerical OY for northern jack mackerel.

Amendment 2 deleted the sablefish OY in the Monterey Bay subarea, established a framework for modifying gear regulations, and established new gear marking requirements.

Amendment 3 incorporated habitat considerations into the FMP, including a policy that there be no net loss of the productive capacity of any marine or estuarine habitat that sustains groundfish, and procedures for making temporary adjustments to fishery access due to unsafe weather conditions.

Amendment 4 (1) revised the management goals and objectives, updated the descriptive sections, and reorganized the chapters of the FMP; (2) revised the definitions of OY and established a procedure to specify allowable harvest levels and management measures to achieve them on an annual basis; (3) established a procedure for revising fishing restrictions for other than biological reasons; (4) revised the “point of concern” provision by eliminating the requirement to declare biological stress on a species; (5) revised the use of the harvest reserve for a species for which a joint venture or directed foreign fishery is conducted; (6) provided for reporting requirements when state data collection systems are insufficient for fishery management, including for vessels that process fish at sea; (7) streamlined the procedures to review and approve applications for exempted fishing permits; (8) established procedures for reviewing state regulations

to determine if they are consistent with the FMP and federal fishing regulations; and (9) established procedures for setting and adjusting restrictions on the landing of groundfish caught in non-groundfish fisheries. (This major FMP amendment was accompanied by an EIS.)

Amendment 5 established standards to prevent and respond to overfishing.

Amendment 6 established a federal groundfish commercial fishing permit and limited the number of permits. (This major FMP amendment was accompanied by an EIS.)

Amendment 7 established procedures for limiting bycatch of non-groundfish species taken in groundfish fisheries.

Amendment 8 would have established a sablefish individual transferable quota (ITQ) program (tabled indefinitely).

Amendment 9 established a sablefish endorsement for limited entry fixed gear permits.

Amendment 10 authorized retention of salmon incidentally captured with trawl gear when a monitoring program is in effect.

Amendment 11 (1) revised the definitions and establishment of individual and multispecies OYs; (2) revised the definition and specification of maximum sustainable yield (MSY), acceptable biological catch (ABC), OY and overfishing control rules, and rebuilding programs; (3) defined, described, and identified groundfish EFH; (4) established bycatch provisions [note: disapproved by NMFS]; (5) addressed fishing communities; (6) clarified and expanded Council authority to require groundfish processor permits; (7) authorized the utilization of fish to pay for research; (8) updated industry descriptions and other sections, including general editorial cleanup; (9) added FMP objectives and definitions; (10) removed jack mackerel (*Trachurus symmetricus*) from the fishery management unit and included it in the Coastal Pelagic Species FMP.

Amendment 12 established a process by which the Council will develop overfished rebuilding plans.

Amendment 13 increased flexibility in setting annual management measures to better implement overfished species rebuilding plans; introduced an increased utilization program for the at-sea whiting fisheries; revised the regulatory provisions for the routine management measures process; and removed regulatory references to limited entry permit endorsements other than the ”A” endorsement.

Amendment 14 authorized vessels with limited entry fixed gear permits to obtain and use multiple permits for operating in the annual fixed gear sablefish primary season (“permit stacking”).

Groundfish Fishery Management Concerns

- Managing, with the goal of maintaining healthy stocks, 82 stocks that vary in life histories, habitat needs, and response to fishing pressure.
- Preventing "overfishing" and rebuilding "overfished" stocks as required Magnuson-Stevens Act.
- Setting allowable harvest levels when only limited biological information is available on many stocks.
- Maintaining fishing opportunities for abundant stocks while improving protection for depleted species.
- Information on discard levels and the relationship to management measures is insufficient.
- Providing fair access for different segments of the industry (gear types, fishing strategies, open access/limited entry, recreational/commercial).
- Excess harvest capacity in both the limited entry and open access fleets.
- Encouraging bycatch friendly fishing gear and fishing in areas where bycatch is less likely.
- Need to coordinate management of many groundfish species with States.
- Regulations have become increasingly complex, costly and difficult to understand and enforce.

- Unknown effect of fishing gear on essential fish habitat
- Maintaining healthy fishing communities
- Lack of international agreements on setting and sharing the total allowable catch for trans-boundary stocks

Draft Outline of the Environmental Impact Statement

The outline below provides a starting point for discussions on what issues and items should or should not be addressed in the draft EIS.

Cover Sheet

Summary
* Need for and scope of the EIS
* Proposed actions
* Rationale for proposed actions

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Definitions of terms

1.0 Introduction
- 1.1 Purpose and need for the EIS
- 1.2 History of FMP
- 1.3 Summarize the scoping
- 1.4 Significant issues.
- 1.5 EIS and FMP objectives
- 1.6 Public review process including schedule
- 1.7 The decision to be made and any other agencies involved in this analysis.
- 1.8 Other documents that influence the scope of the EIS.
- 1.9 Previews the following chapters of the document

2.0 Alternative Management Measures
- 2.1 Explain that this chapter describes the alternatives (potential actions) and summarizes the environmental consequences of the alternatives.
- 2.2 Describe the alternatives, including the proposed action and no action (Identify the preferred alternative)
- 2.3 Explanation of how these alternatives represent a range of reasonable alternatives.
- 2.4 Alternatives not considered

3.0 The Affected Environment -- includes all physical, biological, social, and economic features of the human environment. Significant issues should receive more extensive discussion than insignificant issues.
- 3.1 Physical and Biological Environment
  - 3.1.1 Fish stocks under the FMP
    * Species and management units (include international aspect if any)
    * Overfished criteria
    * Status of stocks
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  - 3.1.3 Habitat conditions
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- 3.2 Description of the Fishery
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3.4.2 Maintaining healthy stocks
3.4.3 Effects of fishing on fish habitat
3.4.4 Achieving cost-effective management
3.4.5 Maintaining healthy fishing communities
3.4.6 Improving scientific basis for management
3.4.7 Minimizing bycatch (groundfish, non-groundfish, protected species...)

4.0 Environmental Consequences (positive and negative)
4.1 Criteria and standards for evaluation
* Explanation of how section is laid out
4.2 Biological and ecological impacts (including bycatch and EFH)
4.3 Economic and social impacts (including impacts of communities)
4.4 Degree to which FMP objectives are met
4.5 Fishery management costs
4.6 Comparison of alternatives by summarizing the environmental consequences

5.0 Consistency with Applicable Laws and Directives
5.1 NEPA
5.2 Magnuson-Stevens Act
5.3 Regulatory Flexibility Act
5.4 E.O. 12866 (Regulatory impact review)
5.5 Marine Mammal Protection Act
5.6 Endangered Species Act
5.7 Coastal Zone Management Act
5.8 Paperwork Reduction Act
5.9 Migratory Bird Treaty Act
5.10 International Obligations
5.11 E.O. 13175 Tribal Governments
5.11 E.O. 12962 Recreational Fisheries
5.12 E.O 12612 Federalism

6.0 Proposed regulations [if determined to be necessary as a result of EIS process]

7.0 List of Preparers including other agencies involved in the analysis

References.

Appendices.

Time Line for Draft Environmental Impact Statement